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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/779,412	02/08/2001	Satoru Okubo	F-6861	9772

7590  
Jordan and Hamburg  
122 East 42nd Street  
New York, NY 10168

08/12/2003

EXAMINER

SAGER, MARK ALAN

ART UNIT	PAPER NUMBER
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3714

DATE MAILED: 08/12/2003

6

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
**09/779,412**Applicant(s)  
**Okubo et al**Examiner  
**Sager**Art Unit  
**3714**

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 10/11/01, 2/08/01, 1/29/02, 7/29/02.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some\* c) ☐ None of:
- ☒ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2, 4 6) ☐ Other:

***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

***Information Disclosure Statement***

2. Regarding IDS rec'd July 29, 2003, the cover letter and references cited in JPO action (cited as mailed on June 25, 2002) for Japanese Application no. 2000-035577 have been reviewed; however, the form 1449 was not located in file. The Examiner suggests Applicant to re-send the form 1449 with stamped post marked card and cover letter indicating 1449 to be a duplicate mailing of earlier provided form.

***Claim Objections***

3. Claims 1-6 are objected to because of the following informalities: spelling 'releting' (line 7) for --relating--. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 1-2, 6-8, 12-14, 18, 20 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Yamaha Corp (JP 08-243254). JPO web site translation and action/reports 2000-035577 are relied in part herein.

*Claim Rejections - 35 USC § 103*

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claim 3, 9, 15 is rejected under 35 U.S.C. 102(b) as anticipated by Yamaha Corp (JP 08-243254) or, in the alternative, under 35 U.S.C. 103(a) as obvious over Yamaha Corp (JP 08-243254) in view of Sega Enterprises (JP 07-222867). Yamaha discloses a game machine teaching claimed features/steps including the background sound is repeatedly outputted from sound output unit after a time delay which is set in accordance with the type of event place (JPO translation paras. 11-15) and the later one of the background sounds is outputted in lower volume than the previous one of background sounds (fig. 3). Alternatively, in reality, an echo returns an initial sound in a lower volume after a time delay with each reverberation and it is notoriously well known for games to simulate reality. Therefore, it would have been obvious to an artisan at a time prior to the invention to add 'lower in volume than the previous one of the background

sounds' as known in reality to Yamaha's machine to better simulate reality so as to make the game/environment more real and thus more enjoyable. Further, alternatively, Sega discloses a effective sound generating device teaching the later one of the background sound is outputted in lower volume than the previous one of background sounds (fig. 3-4) to enhance realism.

Therefore, it would have been obvious to an artisan at a time prior to the invention to add 'lower in volume than the previous one of the background sounds' as shown by Sega to Yamaha's machine to better simulate reality so as to make the game/environment more real and thus more enjoyable.

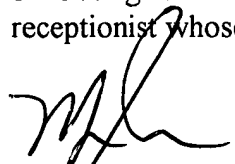
9. Claim 4-5, 10-11, 16-17 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Yamaha Corp (JP 08-243254) in view of Sega Enterprises (JP 07-222867). Yamaha discloses a game machine teaching claimed features/steps (supra) except the same background sound data is repeatedly 'read' after a time delay which is set in accordance with the type of the event place and the read background sound data is outputted from the sound output unit as a background sound. Sega discloses a effective sound generating device teaching the same background sound data is repeatedly 'read' after a time delay which is set in accordance with the type of the event place and the read background sound data is outputted from the sound output unit as a background sound (JPO translation paras. 7-12, 16-17, 24, fig. 3-4). Therefore, it would have been obvious to an artisan at a time prior to the invention to add the same background sound data is repeatedly 'read' after a time delay which is set in accordance with the type of the event place and the read background sound data is

outputted from the sound output unit as a background sound as shown by Sega to Yamaha's machine in order to improve realism of game/environment and increase enjoyment thereby.

10. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yamaha Corp (JP 08-243254) in view of Namco Ltd (JP 08-215433) or Konami KK (JP 07-163754). Yamaha discloses a game machine comprising claimed features/steps (supra) except 'announcing' sound relating to the event. Game sound simulating an announcing of game events is well known as shown by either Namco or Konami so as to increase realism of a broadcast of event. Therefore, it would have been obvious to an artisan at a time prior to the invention to add 'announcing' sound relating to the event as known and shown by either Namco or Konami to Yamaha's game machine to increase realism of a broadcast event.

### *Conclusion*

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. A. Sager whose telephone number is (703) 308-0785. The examiner can normally be reached on T-F from 0700 to 1700. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. S. Tom Hughes, can be reached on (703) 308-1806. The fax phone number for this Group is (703) 872-9302. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1148.

  
M. Sager  
Primary Examiner  
Aug. 7, 2003